

REMARKS

This is in full and timely response to the Office Action mailed on April 10, 2009.

Claims 8-9, 22-23, and 45-76 are currently pending in this application, with claims 8, 9, 22, and 23 being independent.

No new matter has been added.

Reexamination in light of the following remarks is respectfully requested.

Allowable subject matter

Appreciation is expressed for the indication in paragraph 4 of the Office Action that claims 8-9 and 22-23 contain allowable subject matter.

Accordingly, claims 8-9 and 22-23 have been placed into independent form.

Allowance of the claims is respectfully requested.

Newly added claims

Claims 45-51 - Claims 45-51 are dependent upon allowable claim 8.

These claims are allowable at least for the reasons provided hereinabove with respect to claim 8 and for the additional features that they recite.

Prior claims 2-7 and 10-14 have been presented as new claims 45-51 for the convenience of the Examiner.

Claims 52-58 - Claims 52-58 are dependent upon allowable claim 9.

These claims are allowable at least for the reasons provided hereinabove with respect to claim 9 and for the additional features that they recite.

Prior claims 2-7 and 10-14 have been presented as new claims 52-58 for the convenience of the Examiner.

Claims 59-67 - Claims 59-67 are dependent upon allowable claim 22.

These claims are allowable at least for the reasons provided hereinabove with respect to claim 22 and for the additional features that they recite.

Prior claims 16-21 and 24-28 have been presented as new claims 59-67 for the convenience of the Examiner.

Claims 68-76 - Claims 68-76 are dependent upon allowable claim 23.

These claims are allowable at least for the reasons provided hereinabove with respect to claim 23 and for the additional features that they recite.

Prior claims 16-21 and 24-28 have been presented as new claims 68-76 for the convenience of the Examiner.

Allowance of the claims is respectfully requested.

Claim rejection under 35 U.S.C. §101

Paragraph 3 includes a rejection of claims 15-30 and 37-44 under 35 U.S.C. §101

This rejection is traversed at least for the following reasons.

Claims 22-23 - As an initial matter, paragraph 3 identifies claims 22-23 as being rejected under 35 U.S.C. §101.

However, paragraph 4 of the Office Action that claims 22-23 contain allowable subject matter.

Clarification as to the status of claims 22-23 is respectfully requested.

Claims 15-28 - Claims 16-28 were previously dependent upon prior claim 15. Prior claim 15 is drawn to an image processing method for an image processing apparatus for processing a moving picture photographed by a predetermined photographing device on the basis of access units, the image processing method comprising:

a **high rate conversion step** of executing high rate conversion processing for converting a rate of the access units of the moving picture from a current first rate into a second rate, which is higher than the first rate;

a **detection step** of detecting, for each of the plurality of access units forming the moving picture, at least one parameter value representing a characteristic of imaging blur occurring when the **photographing device** photographs the moving picture; and

a **correction step** of correcting, before or after the high rate conversion processing executed in the high rate conversion step, each pixel value forming each subject access unit of the moving picture based on at least one value corresponding to the

subject access unit of the parameter values detected by processing in the detection step.

The Courts have generally excluded laws of nature, physical phenomena and abstract ideas from the patent protection of 35 U.S.C. §101. *Diamond v. Diehr*, 450 U.S. 175, 185, 209 USPQ 1, 7 (U.S. 1981).

However, the opposite of an “abstract idea” is something having a concrete existence, tangible, and put to a practical use. *Ex parte Lundgren*, 76 USPQ2d 1385, 1404 (Bd. Pat. App. & Int. 2005)(Barrett, J., concurring in part and dissenting in part).

The Office Action fails to explain how and why “*the photographing device*” found within the body of claim 15 would not have amounted to something having a concrete existence, tangible, and put to a practical use.

Furthermore, the Courts have held that the transformation of data can produce a tangible result. *NTP Inc. v. Research In Motion Ltd.*, 75 USPQ2d 1763, 1794 (Fed. Cir. 2005).

At the very least, the “*high rate conversion step*”, the “*detection step*”, and the “*correction step*” are examples of a physical process step that transforms one physical, electrical signal into another. *Arrhythmia Research Technology Inc. v. Corazonix Corp.*, 22 USPQ2d 1033, 1038 (Fed. Cir. 1992).

Moreover, prior claim 15, under the broadest reasonable interpretation, could require the use of a computer. *In re Comiskey*, 499 F.3d 1365, 84 USPQ2d 1670, 1680 (Fed. Cir. 2007).

Accordingly, these claims recite statutory subject matter.

Claims 29-30 and 37-44 - While not conceding the propriety of the rejection and in order to advance the prosecution of the present application, claims 29-30 and 37-44 have been canceled.

Withdrawal of this rejection and allowance of the claims is respectfully requested.

Claim rejections under 35 U.S.C. §102 and 35 U.S.C. §103

Page 3 of the Office Action that claims 8-9 and 22-23 contain allowable subject matter.

Accordingly, while not conceding the propriety of the rejection and in order to advance the prosecution of the present application, claims 1-7, 10-15, and 24-44 have been canceled.

Withdrawal of this rejection is respectfully requested.

Restriction

Appreciation is expressed for the indication in paragraph 1 of the Office Action that the restriction requirement has been withdrawn.

Paragraph 1 of the Office Action contends that the claims are obvious variants over each other. In response to this contention, there is no concession as to the veracity of the claims are obvious variants over each other. Instead, page 3 of the Office Action that claims 8-9 and 22-23 contain allowable subject matter. Accordingly, while not conceding the propriety of the rejection and in order to advance the prosecution of the present application, claims 1-7, 10-15, and 24-44 have been canceled.

Official Notice

There is no concession as to the veracity of Official Notice, if taken in any Office Action.

An affidavit or document should be provided in support of any Official Notice taken. 37 CFR 1.104(d)(2), MPEP § 2144.03. See also, *Ex parte Natale*, 11 USPQ2d 1222, 1227-1228 (Bd. Pat. App. & Int. 1989)(failure to provide any objective evidence to support the challenged use of Official Notice constitutes clear and reversible error).

Extensions of time

Please treat any concurrent or future reply, requiring a petition for an extension of time under 37 C.F.R. §1.136, as incorporating a petition for extension of time for the appropriate length of time.

The Commissioner is hereby authorized to charge all required fees, fees under 37 C.F.R. §1.17, or all required extension of time fees.

Fees-general authorization

The Commissioner is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm).

If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Conclusion

This response is believed to be a complete response to the Office Action.

Applicants reserve the right to set forth further arguments supporting the patentability of their claims, including the separate patentability of the dependent claims not explicitly addressed herein, in future papers.

For the foregoing reasons, all the claims now pending in the present application are allowable, and the present application is in condition for allowance.

Accordingly, favorable reexamination and reconsideration of the application in light of the remarks is courteously solicited.

If the Examiner has any comments or suggestions that could place this application in even better form, the Examiner is requested to telephone Brian K. Dutton, Reg. No. 47,255, at 202-955-8753.

Dated: May 5, 2009

Respectfully submitted,

By 

Ronald P. Kananen

Registration No.: 24,104

Christopher M. Tobin

Registration No.: 40,290

RADER, FISHMAN & GRAUER PLLC

Correspondence Customer Number: 23353

Attorneys for Applicant